IN THE BOMBAY HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.449 OF 2004

Nirajkumar Agarwal ...Petitioner.

vs.

1A. Rajul K. Shah & Another. ...Respondents.

Mr.A.G.Damale, for Petitioner.

Mr.V.M.Vaghela, for Respondent no.1.

CORAM: D.K.DESHMUKH,J.

DATED: 7th March, 2005.

P.C.:-

1. This petition is filed under Section 34 of the Arbitration & Conciliation Act, 1996, challenging the Award made by the Arbitrator appointed by the National Stock Exchange, dated 29th November,2001. It is an ex-

parte award. The petitioner challenges the Award on the ground that the Award was made without issuing him notice. The affidavit has been filed by Mr.Vikram Kadam, Assistant Manager of National Stock Exchange of India Ltd. He has clearly stated in that affidavit that the notices of the arbitration proceedings were sent on five occasions to the petitioner, and each time the petitioner refused to accept the notices. This position is not disputed by the petitioner by filing counter affidavit. In this view of the matter therefore, it is clear that though given due notice, the petitioner himself refused to accept the notice. Therefore, the notices are deemed to have been served. Therefore, no default is found with the Arbitrator passing the Ex-parte award. Therefore, the petition is disposed of.

7.3.2005 ----